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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,381	11/12/2003	Moris Dovek	HT02-016	6373
28112	7590	08/17/2009		
SAILE ACKERMAN LLC			EXAMINER	
28 DAVIS AVENUE			DRAVININKAS, ADAM B	
POUGHKEEPSIE, NY 12603				
		ART UNIT	PAPER NUMBER	
		2627		
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		08/17/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/706,381	Applicant(s) DOVEK ET AL.
Examiner ADAM B. DRAVININKAS	Art Unit 2627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 4-10.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Andrea L. Wellington/
Supervisory Patent Examiner, Art Unit 2627

Continuation of 3. NOTE: The addition of the limitation "a NON-MAGNETIC substrate" (emphasis added) in claim 4 raises new issues that would require further consideration and/or search..

Continuation of 11.request for reconsideration does NOT place the application in condition for allowance because: Applicant argues that "the present invention is an example of a first-generation magnetic writer" and "the term 'write gap' has a different meaning when used to describe first generation writers from its meaning when used to describe perpendicular pole writers." In response to this argument, the Examiner points out that there is nothing in the claims which would preclude the use of either first-generation writers or second-generation perpendicular writers. Therefore, the rejection over Chen is maintained.

Applicant further argues regarding the Chen reference that the claimed language "an upper magnetic pole that...is separated from said ledge...by only a second layer of non-magnetic material that is a write gap" should mean for example that "layer 41 is separated from layer 11 by only layer 13" as seen in FIG. 4 of the present invention. However, this is clearly not the case even in Applicant's FIG. 4. As can clearly be seen in Applicant's FIG. 4, the layer 41 is not only separated from layer 11 by the write gap 13, but by the coils 14 and the coil insulating layer as well. Applicant is attempting to induce the Examiner to read limitations into the claims. The Examiner refuses to interpret the claims in such an exceedingly narrow manner. Not even does Applicant's drawing FIG 4 support such an interpretation.

Applicant argues regarding the Takano reference that "it is impossible to know whether layer 10b was deposited directly onto a substrate." One of ordinary skill in the art knows that there must be some type of substrate onto which layer 10b is deposited. If there were no substrate, the layer 10b and in fact the entire head of Takano would be floating in space. Because such a floating in space head would render the invention of Takano useless, this cannot be the case. Further, Takano already discloses that there is a substrate onto which 10b is deposited. Fig. 14 is a cross sectional view of fig. 13 (para. 0088). Fig. 13 is part of an embodiment where the upper and lower magnetic layers are "completely insulated by a resin insulation layer. (para. 0087) Therefore, Takano specifically teaches "layer 10b was disposed directly onto a substrate".

Applicant argues regarding the Perlov reference that "layer 26 is the main write pole so it cannot be non-magnetic" and " in the event Examiner meant layer 22, instead of 26, we note that 22's contact to 25 is not limited to only an edge of 25" The Examiner thanks Applicant for pointing out the typographical error and regrets any misunderstanding. Applicant argues that Perlov "is another example of a perpendicular writer" however, the claims do not preclude a perpendicular writer so Applicant is arguing limitations which are not claimed. .